

AMENDMENTS TO THE DRAWINGS

The attached drawing sheet includes a change to Figure 1. The balcony (53) and skeleton (54), which were previously depicted with dashed lines, are now depicted with solid lines.

Attachment: Figure 1 Replacement Sheet

REMARKS

Claims 28, 31-43, 45-49, and 51-54 are presently pending. Claims 28-54 were rejected in the Office Action dated October 5, 2007. Claims 46 and 47 were rejected under 35 U.S.C. § 112, first paragraph, for allegedly failing to comply with the written description requirement. Claims 31 and 37-45 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicant regards as the invention. Claims 28-30, 32, 35-37, 48, and 51-54 were rejected under 35 U.S.C. § 102 as allegedly anticipated by U.S. Patent 1,782,671 ("Allred"). Claims 31 and 40-45 were rejected under 35 U.S.C. § 103(a) as allegedly obvious over Allred in view of U.S. Patent 4,469,198 ("Crump"). Claims 33 and 34 were rejected under 35 U.S.C. § 103(a) as allegedly obvious over Allred alone. Claim 49 was rejected under 35 U.S.C. § 103(a) as allegedly obvious over Allred in view of U.S. Patent 1,566,491 ("Lindquist"). Claim 50 was rejected under 35 U.S.C. § 103(a) as allegedly obvious over Allred in view of U.S. Patent 4,592,270 ("Verner"). Additionally, the Examiner requested amended drawings to further depict certain claimed elements. Claims 28, 31, 32, 34, 35, 37, 38, 39, 40, 41, 42, 43, 45, and 46 are amended. Claims 29, 30, 44, and 50 are canceled. Support for these amendments can be found throughout the specification, drawings, and previous claims.

In view of the following arguments, all claims are believed to be in condition for allowance over the prior art of record. Therefore, this response is believed to be a complete response to the Office Action. However, Applicants reserve the right to set forth further arguments supporting the patentability of their claims, including the separate patentability of the dependent claims not explicitly addressed herein, in future papers. Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

I. Objections to the Drawings

The Examiner requested amended drawings that further depict certain claimed elements. Specifically, the Examiner stated that “the details of safety catch 48 of claim 46, the heating and cooling system of claims 50, and the balconies and skeleton of claims 51-54, must be shown.” (Office Action, page 2.) Figures 1 and 3 both depict the claimed safety catch, which is identified by reference number 48. Applicant traverses this objection and asserts that the depiction of the safety catch in the drawings as filed amply supports the scope of claim 46. However, Applicant submits an amended Figure 1 that more clearly depicts the balcony and skeleton, which were previously depicted in outline format. The skeleton is identified with reference number 54. Applicant has canceled claim 50.

II. Section 112 Rejections

Claims 46 and 47 were rejected under 35 U.S.C. § 112, first paragraph, for allegedly failing to comply with the written description requirement. Claim 46 has been amended merely to provide consistency with its parent claim. Further, Applicant traverses this basis of rejection. The drawing figures along with the specification adequately support the claimed subject matter.

Claims 31 and 37-45 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicant regards as the invention. Claims 31, 37-43, and 45 have been amended with appropriate corrections. Claim 44 has been cancelled. These amendments are not believed to alter the scope of the claims.

III. Prior Art Rejections

To anticipate a claim, the reference must teach every element of the claim. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claim.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). As will be detailed

below, Jokinen fails to teach or suggest “each and every element” of Applicants’ claims. Therefore, Applicants respectfully traverse this basis of rejection.

A. Independent Claim 28

As amended, claim 28 recites in part:

a plurality of vertical carriers arranged about a car, each carrier including first and second opposing recesses;
a guide rail having a plurality of vertical surfaces disposed within the first recess;
a truck attached to the car having a plurality of rollers surrounding the plurality of vertical surfaces of the guide rail;

1. “a guide rail having a plurality of vertical surfaces disposed within the first recess”

Claim 28 was rejected under 35 U.S.C. § 102 as allegedly anticipated by U.S. Patent 1,782,671 (“Allred”). Allred fails to teach or suggest at least “a guide rail having a plurality of vertical surfaces disposed within the first recess.” At most, Allred discloses a plurality of vertical I-beams (13) having a guide rail (12) and counterweight guide (14) attached thereto. (Allred, 2:71-80, Fig. 4.) However, Allred fails to teach or suggest “a guide rail ... disposed with the first recess.” In fact, Allred clearly shows the guide rail being attached to an outer surface of the I-beam. (Allred, Fig. 4.)

Even if Claim 28 were analyzed against the combined teachings of Allred and Crump, the combination does not overcome Allred’s deficiencies. At most, Crump discloses a wheeled truck (94) contained within a track system (22). (Crump, Figs. 10, 12.) However, Crump does not teach or suggest “a guide rail” at all, let alone “a guide rail having a plurality of vertical surfaces disposed within the first recess.” Likewise, Vener and Lindquist do not teach or suggest any similar structures and therefore would not add anything to this analysis.

Accordingly, the cited art fails to teach or suggest the foregoing claim recitations of claim 28, which is patentable for at least these reasons. Further, all other pending claims depend directly or indirectly from claim 28, and are therefore similarly patentable.

2. “a truck attached to the car having a plurality of rollers surrounding the plurality of vertical surfaces of the guide rail”

The cited references further fail to teach or suggest at least “a truck attached to the car having a plurality of rollers surrounding the plurality of vertical surfaces of the guide rail.” As explained above, Allred teaches, at most, a plurality of vertical I-beams (13) having a guide rail (12) and counterweight guide (14) attached thereto. (Allred, 2:71-80, Fig. 4.) However, Allred fails to teach or suggest “a truck attached to the car having a plurality of rollers,” let alone “a plurality of rollers surrounding the plurality of vertical surfaces of the guide rail.” Again, Crump does not overcome Allred’s deficiencies. At most, Crump teaches a wheeled truck (94) contained within a track system (22). (Crump, Figs. 10, 12.) Crump does not teach or suggest a guide rail period, let alone “a plurality of rollers surrounding the plurality of vertical surfaces of the guide rail.” Additionally, Vener and Lindquist do not teach or suggest any similar structures and are therefore irrelevant the analysis of “a truck attached to the car having a plurality of rollers surrounding the plurality of vertical surfaces of the guide rail.” Accordingly, the cited art fails to teach or suggest the foregoing claim recitation.

Accordingly, the cited art fails to teach or suggest the foregoing claim recitations of claim 28, which is patentable for at least these additional reasons. Further, all other pending claims depend directly or indirectly from claim 28, and are therefore similarly patentable.

B. Dependent Claim 39

As amended, claim 39 recites in part:

the vertically extending guide surfaces are formed as angular profiles that are fixed to at least two opposing sides of the second recess and on which guide rollers fixed to the counterweight are supported.

Claim 39 is patentable at least due to the fact that it depends, indirectly, from claim 28. Additionally, claim 39 is separately patentable because the cited references fail to teach or suggest the foregoing recitation. For instance, none of the cited references teach or suggest “angular profiles that are fixed to at least two opposing sides of the second recess,” let alone “guide rollers fixed to the counterweight” being supported thereby. Accordingly, claim 39 is patentable for at least these additional reasons.

CONCLUSION

All rejections have been addressed. In view of the above, the presently pending claims are believed to be in condition for allowance. Accordingly, reconsideration and allowance are respectfully requested and the Examiner is respectfully requested to pass this application to issue. It is believed that any fees associated with the filing of this paper are identified in an accompanying transmittal. However, if any additional fees are required, they may be charged to Deposit Account 18-0013, under order number 65999-0009. To the extent necessary, a petition for extension of time under 37 C.F.R. 1.136(a) is hereby made, the fee for which should be charged against the aforementioned account.

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Respectfully submitted,

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